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GARY WANG,
Plaintiff,
v.
EHANG HOLDINGS LIMITED, et al.,
Defendants.

Case No. 20-cv-00569-BLF

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
NEW TRIAL**

[Re: ECF 211]

Plaintiff Gary Wang (“Wang”) tried this action to a jury in April 2022, asserting employment-related claims against Defendants EHang Holdings Limited (“EHang Holdings”), Guangzhou EHang Intelligent Technology Co., Ltd. (“EHang Intelligent”), Huazhi Hu (“Hu”), Derrick Yifang Xiong (“Xiong”), Shang-Wen Hsiao (“Hsiao”), and Richard Jian Liu (“Liu”). The jury rendered a verdict on April 11, 2022, finding liability against EHang Holdings, EHang Intelligent, and Hu, awarding compensatory damages in the amount of \$3,500,000, and awarding punitive damages in the amount of \$15,000,000. *See* Verdict, ECF 183. The jury found no liability against Xiong, Hsiao, or Liu. *See id.* The Court entered judgment consistent with the jury’s verdict on April 28, 2022. *See* Judgment, ECF 192.

This order addresses a motion for new trial filed by Defendants EHang Holdings, EHang Intelligent, and Hu.¹ For the reasons discussed below, the motion is GRANTED IN PART AND DENIED IN PART.

¹ Plaintiff Wang’s motion for attorneys’ fees, costs, and interest will be addressed in a separate order.

1 **I. BACKGROUND**2 *Wang's Claims*

3 This suit arises out of Wang's employment with two related companies, EHang Holdings
4 and EHang Intelligent. The companies operate out of the same principal place of business in
5 China, and their high-level executives – Hu, Xiong, Hsiao, and Liu – reside in China. In 2015,
6 Wang was hired as the general manager of the companies' United States office. Wang asserts that
7 during the interview process, he was promised Restricted Share Units ("RSUs") of EHang
8 Holdings stock as part of his compensation. Wang claims that he relied on that promise when he
9 accepted the general manager position, which otherwise paid a lower salary than normal.
10 According to Wang, Defendants never intended to honor their promise to grant him the RSUs.

11 Wang worked in the general manager position for approximately one year before resigning
12 in August 2016. At that time, Wang requested stock certificates for 129,107 RSUs that he asserts
13 vested during his employment. Wang claims that Defendants responded to his request with a false
14 promise to deliver the RSUs once an Employee Stock Option Plan ("ESOP") was adopted, but
15 Defendants never intended to honor that promise. Wang checked in with Defendants every few
16 months for the next several years, inquiring about delivery of the RSUs. He finally commenced
17 this action in January 2020.

18 At the Final Pretrial Conference, the Court orally granted Wang leave to amend his
19 pleading, and Wang filed the operative third amended complaint ("TAC") on March 7, 2022. *See*
20 TAC, ECF 140. The TAC contains three claims: (1) breach of employment contract against
21 EHang Holdings and EHang Intelligent; (2) false promise against EHang Holdings, EHang
22 Intelligent, Hu, Xiong, Hsiao, and Liu; and (3) failure to pay wages against EHang Holdings,
23 EHang Intelligent, and Hu. *See id.* All three claims are grounded in Defendants' failure to deliver
24 the RSUs that Wang asserts were promised to him as part of his compensation. *See id.*

25 *Jury Trial*

26 The trial was extremely unusual, in that none of the Defendants bothered to show up.
27 Wang could not compel Defendants' appearance at trial because they are beyond the geographical
28 reach of the Court. *See* Fed. R. Civ. P. 45(c)(1). As a result, only Wang appeared in the

1 courtroom to testify. Defendant Liu was permitted to testify via video from China due to a health
2 condition that prevented his travel to the United States. No other witnesses were called.

3 The jury appears to have credited virtually all of Wang's testimony. On Claim 1 for
4 breach of contract, the jury found both EHag Holdings and EHag Intelligent liable. *See* Verdict
5 at 2. On Claim 2 for false promise, the jury found Hu liable for false promise and found EHag
6 Holdings and EHag Intelligent vicariously liable for Hu's false promise. *See id.* at 3-6. The jury
7 did not find Xiong, Hsiao, or Liu liable for false promise, and also rejected Wang's theory that the
8 individual Defendants conspired to make false promises to him. *See id.* On Claim 3 for unpaid
9 wages, the jury found EHag Holdings, EHag Intelligent, and Hu liable. *See id.* at 8.

10 The jury awarded compensatory damages in the amount of \$3,500,000, for which EHag
11 Holdings, EHag Intelligent, and Hu are jointly and severally liable. *See* Verdict at 9; Judgment at
12 1-2. The jury also awarded punitive damages against EHag Holdings in the amount of
13 \$10,000,000 and punitive damages against Hu in the amount of \$5,000,000. *See* Verdict at 9.

14 *Court's Findings of Fact and Conclusions of Law re Equitable Estoppel*

15 Prior to the jury trial, Defendants indicated that they would assert statute of limitations
16 defenses to the claims for false promise and unpaid wages. Wang argued that Defendants were
17 estopped from asserting statute of limitations defenses to those claims. The parties agreed on a
18 special verdict form that asked whether the false promise and unpaid wages claims were untimely
19 and, if so, whether Defendants were estopped from asserting statute of limitations defenses. *See*
20 Verdict at 7-8. The Court advised the parties that the jury's findings on estoppel would be
21 advisory, however, as estoppel is an equitable issue to be determined by the Court.

22 The jury found that Wang's false promise and unpaid wages claims were untimely, but that
23 Defendants are estopped from asserting the defense of statute of limitations. *See* Verdict at 7-8.
24 The Court issued its Findings of Fact and Conclusions of Law Re Equitable Estoppel ("FFCL") on
25 April 28, 2022, determining that Defendants EHag Holdings, EHag Intelligent, and Hu are
26 equitably estopped from asserting statute of limitations defenses to Wang's claims for false
27 promise and unpaid wages, because they intentionally acted to induce Wang to delay filing suit
28 until the limitations periods on his claims had expired. *See* FFCL, ECF 191.

Judgment

On April 28, 2022, the Court entered judgment for Wang and against EHang Holdings, EHang Intelligent, and Hu, consistent with the jury’s verdict and the Court’s FFCL. *See Judgment.*

II. LEGAL STANDARD

“The court may, on motion, grant a new trial on all or some of the issues . . . after a jury trial, for any reason for which a new trial has heretofore been granted in an action at law in federal court.” Fed. R. Civ. P. 59(a)(1). “Historically recognized grounds include, but are not limited to, claims that the verdict is against the weight of the evidence, that the damages are excessive, or that, for other reasons, the trial was not fair to the party moving.” *Molski v. M.J. Cable, Inc.*, 481 F.3d 724, 729 (9th Cir. 2007) (quotation marks and citation omitted). The Ninth Circuit has construed Rule 59 to permit a new trial “if the verdict is contrary to the clear weight of the evidence, is based upon false or perjurious evidence, or to prevent a miscarriage of justice.” *Id.* (quotation marks and citation omitted).

“Upon the Rule 59 motion of the party against whom a verdict has been returned, the district court has the duty . . . to weigh the evidence as [the court] saw it, and to set aside the verdict of the jury, even though supported by substantial evidence, where, in [the court’s] conscientious opinion, the verdict is contrary to the clear weight of the evidence.” *Molski*, 481 F.3d at 729 (quotation marks and citation omitted). “[D]etermining ‘the clear weight of the evidence’ is a fact-specific endeavor.” *Id.* In undertaking that endeavor, “[t]he judge can weigh the evidence and assess the credibility of witnesses, and need not view the evidence from the perspective most favorable to the prevailing party.” *Landes Const. Co. v. Royal Bank of Canada*, 833 F.2d 1365, 1371 (9th Cir. 1987). However, “a district court may not grant or deny a new trial merely because it would have arrived at a different verdict” from that reached by the jury. *United States v. 4.0 Acres of Land*, 175 F.3d 1133, 1139 (9th Cir. 1999). A new trial should be granted only if the court “on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *Landes*, 833 F.2d at 1372 (citation omitted).

1 **III. DISCUSSION**

2 Defendants EHang Holdings, EHang Intelligent, and Hu seek a new trial on three aspects
3 of the verdict: the jury's finding of liability on the false promise claim, the jury's award of
4 compensatory damages in the amount of \$3,500,000, and the jury's award of punitive damages in
5 the amount of \$15,000,000.

6 **A. Jury's Finding of Liability on False Promise Claim**

7 The jury found that Hu is liable for false promise, and that EHang Holdings and EHang
8 Intelligent are vicariously liable for Hu's false promise. *See* Verdict at 3-6. Defendants contend
9 that the finding of liability against Hu, and by extension the finding of vicarious liability against
10 EHang Holdings and EHang Intelligent, are against the clear weight of the evidence.

11 The jury was given the following instruction on the elements of a claim of false promise:

12 **Instruction No. 47. False Promise by Individual Defendants**

13 Plaintiff Gary Wang claims he was harmed because each of the individual
14 defendants Huazhi Hu, Derrick Xiong, Shang-Wen Hsiao, and Richard Liu, made a
15 false promise to him. To establish this claim against an individual defendant,
16 Plaintiff must prove all of the following:

17 1. That the individual defendant made a promise to Gary Wang;
18 2. That the individual defendant did not intend to perform this promise when it
19 made it;
20 3. That the individual defendant intended that Gary Wang rely on this promise;
21 4. That Gary Wang reasonably relied on the promise;
22 5. That the individual defendant did not perform the promised act;
23 6. That Gary Wang was harmed; and
24 7. That Gary Wang's reliance on the individual defendant's promise was a
25 substantial factor in causing his harm.

26 Jury Instr. No. 47, ECF 177.

27 Wang argued at trial that two false promises were made to him, one in 2015 and one in
28 2016. During closing argument, Wang's counsel described the 2015 false promise as follows:

29 There are two false promise, one is 2015 false promise by Mr. Hu, Derrick Xiong,
30 and Shang Hsiao. That promise is the RSU promise. You come here you work for
31 us, we will give you this many shares of RSU. That turned out to be false, they
32 never intended to enforce it, to honor that promise.

33 Trial Tr., Vol. 4, 510:19-25.

34 Wang's counsel also described the 2016 false promise during closing argument:

1 The second false promise, the minor false promise, in 2016 by Mr. Liu, Mr. Hsiao.
2 And in 2016 when Gary was leaving, he said please give me the stock certificate.
3 They said no, there's a delay, when ESOP is approved, you will get a stock
4 certificate. That promise was false, because right away, when the ESOP was
approved, they concealed the news from him, they even concealed the round C
news from the public, just so the RSU holder would not file lawsuit.

5 Trial Tr., Vol. 4, 511:17-24.

6 The asserted false promises also were summarized in Jury Instructions 51 and 52. Jury
7 Instruction 51 advised the jury that, "Gary Wang claims that Huazhi Hu, Derrick Xiong, and/or
8 Shang Hsiao made false promises of Restricted Share Units to him in 2015 and that he relied on
9 the false promises." Jury Instr. No. 51. Jury Instruction No. 52 advised the jury that, "Gary Wang
10 claims that Huazhi Hu, Derrick Xiong, Shang Hsiao, and/or Richard Liu made false promises to
11 Gary Wang in 2016 of issuing the stock certificate of Gary Wang's vested Restricted Share Units
12 as soon as the Employee Stock Option Plan (ESOP) was approved and that he relied on the false
13 promises." Jury Instr. No. 52.

14 Defendants contend that Wang did not present any evidence at trial that Hu made these
15 promises to him (the first element of a false promise claim) or that Hu did not intend to honor the
16 promises if he made them (the second element of a false promise claim). The Court takes up these
17 arguments in turn.

18 **1. First Element of a False Promise Claim – Making a False Promise**

19 With respect to the asserted 2015 promise, Defendants cite to Wang's testimony that his
20 negotiations regarding compensation were with Defendants Xiong and Hsiao, not with Hu. *See*
21 Trial Tr., Vol. 1, 114:2-117:6 (Wang's testimony regarding conversations with Xiong about
22 compensation); 117:17-119:24 (Wang's testimony regarding negotiations with Hsiao about
23 compensation); 120:2-125:25 (Wang's testimony regarding further negotiations with both Xiong
24 and Hsiao about compensation). On cross-examination, Wang conceded that he did not speak to
25 Hu about his compensation in 2015. *See* Trial Tr., Vol. 3, 317:4-318:6 (Wang's testimony
26 regarding his 2015 interview with Hu). Wang testified that he had a single meeting with Hu in
27 June 2015, which took place in China at a high-end restaurant. *See id.* There was no discussion of
28 compensation at that lunch. *See id.* Defendants point to the following testimony in particular:

1 Q. Mr. Huazhi Hu never talked with you about your compensation, correct?
2 A. Not the numbers.
3 Q. What do you mean not the numbers?
4 A. Not the details.
5 Q. Can you explain a little bit more? When did he – let me ask you this, Mr.
6 Huazhi Hu talked about – talked about your potential compensation at any
time?
7 A. Not during that lunch meeting.
8 Q. Okay. Afterwards?
9 A. Generally, no.

10 Trial Tr., Vol. 3, 317:17-318:2. Defendants argue that this testimony is consistent with the offer
11 letter Wang presented at trial, providing that Wang would receive RSUs, as that offer letter was
12 signed by Hsiao (not Hu). *See* Offer Letter, Exh. 5 to Hartnett Decl., ECF 211-6.

13 With respect to the 2016 promise, Defendants point to an absence of testimony or other
14 evidence that Wang spoke to Hu in 2016 about the RSUs or anything else. Defendants also
15 correctly point out that the closing argument presented by Wang’s counsel did not even mention
16 Hu in connection with the asserted 2016 false promise. *See* Trial Tr., Vol. 4, 511:17-24.

17 In his written opposition to the motion for new trial on the false promise claim, Wang
18 relies heavily on the Court’s FFCL re equitable estoppel, asserting that the evidence discussed
19 therein “plainly support[s] the jury’s verdict for false promise against Defendant Hu.” Pl.’s Opp.
20 at 4, ECF 219. Wang’s reliance on the Court’s FFCL is misplaced. As an initial matter, the FFCL
21 does not address events that occurred in 2015. *See generally* FFCL. The FFCL discusses
22 evidence that Defendants EHang Holdings, EHang Intelligent, and Hu engaged in conduct
23 intended to cause Wang to delay filing suit after he left his employment *in 2016*. *See id.* at 1-2.
24 Because it does not address the events of 2015, the Court’s FFCL does not support to Wang’s
25 claim that Hu made him a false promise in 2015.

26 With respect to the events of 2016, the FFCL states that “Hu did not directly make
27 representations to Plaintiff prior to December 2019.” FFCL at 10-11. That statement undermines,
28 rather than supports, Wang’s claim that Hu made him a false promise in 2016. The Court’s
determination that Hu made no representations to Wang until 2019 did not preclude the Court
from finding that Hu is equitably estopped from asserting a statute of limitations defense to
Wang’s false promise claim. Although a claim for false promise requires proof that the individual

1 defendant “made a promise” to the plaintiff, *see* Jury Instr. No. 47, the doctrine of equitable
2 estoppel requires only that the individual defendant engaged in “conduct” that induced another to
3 forbear suit, *see Lantzy v. Centex Homes*, 31 Cal. 4th 363, 383 (2003). In its FFCL, the Court
4 determined that Hu’s conduct in directing others to make promises that induced Wang to forbear
5 suit was sufficient to trigger application of the doctrine. *See* FFCL at 10-11. That determination
6 does not provide a basis for concluding that Hu himself made a promise to Wang in 2016.

7 Defendants note that Wang did not argue at trial that Hu’s December 2019 statements
8 constituted a false promise. In December 2019, Wang contacted Hu via WeChat, complaining that
9 Liu had not responded to his requests for the RSUs. *See* Trial Tr., Vol. 1, 152:3-153:3. Hu said
10 he would tell Liu to handle it, but neither Liu nor Hu ever got back to Wang. *See id.* Wang
11 testified that after his last WeChat communication with Hu on approximately December 15, 2019,
12 “they all go quiet, radio silence, nobody respond to me anymore.” *Id.* 152:24-153:3. It was at that
13 point that Wang “realized they are not going to give to me the stocks. And then I started to look
14 for legal advice or legal options.” *Id.* 153:5-8. Wang filed suit the next month, on January 24,
15 2020. *See* Compl., ECF 1. Defendants correctly argue that based on this testimony, Wang could
16 not have established reliance (the fourth element of a false promise claim) even if he had pursued
17 a false promise claim based on Hu’s 2019 statements.

18 At the hearing on Defendants’ motion, Wang’s counsel offered an entirely new argument
19 that was not set forth in his written opposition. Counsel argued that the offer letter to Wang,
20 which was signed by Hsiao, actually constituted a false promise by Hu because Hu approved the
21 offer letter. In support of that argument, Wang’s counsel directed the Court to trial exhibit 110-A.
22 Trial exhibit 110-A is an email chain that includes an email dated July 28, 2016, from Defendant
23 Liu to other EHANG employees about a potential new hire of a different employee. In the email,
24 Defendant Liu stated that no offer letter could be issued without Hu’s approval. Liu also testified
25 that in 2016, Hu had to approve all offer letters. *See* Trial Tr., Vol. 3, 424:15-20.

26 Wang’s new argument is unpersuasive. First, evidence that Hu had to approve all offer
27 letters in 2016 does not establish that Hu approved Wang’s offer letter a year earlier, in 2015.
28 Second, even assuming that Hu did approve Wang’s offer letter in 2015, Wang has not cited any

1 legal authority establishing that Hu's approval of an offer letter signed by Hsiao transformed the
2 offer letter into a promise by Hu. "A fraud claim against one entity does not generally lie for
3 statements made by another." *Trigueiro v. Bank of Am., N.A.*, No. 2:14-CV-02556-MCE-EF,
4 2015 WL 4983599, at *12 (E.D. Cal. Aug. 19, 2015). "A claim for fraud requires that plaintiff
5 plead that *the defendant* made a misrepresentation." *Ohlendorf v. Am. Home Mortg. Servicing*,
6 279 F.R.D. 575, 580 (E.D. Cal. 2010) (emphasis added).

7 Third, Wang did not present his current theory of liability at trial. While Wang did argue
8 that Hu could be liable for false promises made by Hsiao and Xiong, the basis for that argument
9 was Wang's conspiracy theory. Wang's counsel summarized that theory in closing argument:

10 Another issue is conspiracy. Why conspiracy claim? That's for the situation, let's
11 say in the 2015 false claim, we know Hsiao and Xiong, the CFO and CMO made
12 the false promise, we also know Gary had lunch with Mr. Hu and they talk about
13 the promise – how promising the company is to enhance the equity for Gary. And
14 if you find Mr. Hu did not personally make that false promise, he can still be held
15 liable for the false promise if you find there's certain agreement among them to
16 make the false promise.

17 Trial Tr., Vol. 4, 511:25-512:8. Wang's counsel elaborated:

18 Being the head of the company, being the one who has to decide who gets paid
19 what, so it is more likely than not, Mr. Hu was in that agreement, even if he
20 personally did not say, i will give you 0.6 percent of the company's RSU. But he
21 was in agreement, that's called conspiracy.

22 Trial Tr., Vol. 4, 512:9-13. The jury rejected this theory of liability against Hu, however, finding
23 that Wang failed to prove that there was a conspiracy among the individual Defendants to make a
24 false promise in either 2015 or 2016. *See* Verdict at 5.

25 **2. Second Element of a False Promise Claim – No Intent to Perform**

26 Defendants argue that even if Wang had presented evidence that Hu made a false promise
27 in 2015 or 2016, Wang did not present evidence that Hu did not intend to perform those promises
28 at the time the promises were made. Under California law, affirmative evidence is required to
prove false promise, because "mere nonperformance is not enough to show intent to defraud."
Fanucchi & Limi Farms v. United Agri Prod., 414 F.3d 1075, 1088 (9th Cir. 2005). Wang does
not identify any evidence of Hu's intent in opposition to Defendants' motion, and the Court has
not found such evidence in the trial record.

1 **3. Conclusion**

2 After carefully reviewing the record, the Court finds no evidence that Hu made *any*
3 promise to Wang in 2015 or 2016, and certainly no evidence that Hu made a promise to Wang in
4 those years relating to the RSUs. Accordingly, the Court concludes that the jury's finding of
5 liability against Hu on the false promise claim is against the clear weight of the evidence. The
6 Court likewise concludes that the jury's finding of liability against EHang Holdings and EHang
7 Intelligent on the false promise claim is against the clear weight of the evidence, as that finding
8 depends solely on the jury's determination that EHang Holdings and EHang Intelligent are
9 vicariously liable for Hu's false promise. Having reached these conclusions, the Court has no
10 alternative but to grant Defendants' motion for a new trial on the false promise claim.

11 The false promise claim is the only claim that could give rise to punitive damages. The
12 jury was instructed that punitive damages could be awarded if Defendants' conduct under the false
13 promise claim caused harm to Wang, and Defendants engaged in that conduct with malice,
14 oppression, or fraud. *See* Jury Instr. No. 76. Given the Court's determination that Defendants are
15 entitled to a new trial on the false promise claim, the punitive damages award cannot stand. Wang
16 will have the opportunity to seek punitive damages during the retrial of his claim for false
17 promise.

18 The motion for new trial is GRANTED with respect to the jury's finding of liability
19 against Defendants EHang Holdings, EHang Intelligent, and Hu on the false promise claim. The
20 motion for new trial also is GRANTED with respect to the jury's award of punitive damages, as
21 that award cannot stand in light of the Court's determination that a new trial must be granted on
22 the false promise claim. The Court observes that the new trial is limited to Wang's claims for
23 false promise against Defendants EHang Holdings, EHang Intelligent, and Hu. The jury found
24 that Defendants Xiong, Hsiao, and Liu are not liable for false promise, and Plaintiff Wang did not
25 challenge that verdict.

26 **B. Jury's Award of Compensatory Damages**

27 The jury awarded Wang compensatory damages in the amount of \$3,500,000. *See* Verdict
28 at 9. Defendants contend that this award is entirely speculative and unsupported by the evidence,

1 and they seek a new trial on compensatory damages. Wang asserts that the jury's compensatory
2 damages award is supported by the evidence presented at trial.

3 The instruction on compensatory damages included the following language:

4 Plaintiff must prove the amount of his damages. However, Plaintiff does not have
5 to prove the exact amount of damages that will provide reasonable compensation
for the harm. You must not speculate or guess in awarding damages.

6 Jury Instr. No. 72.

7 An officer suing for breach of a contractual agreement to grant stock options may argue
8 that the stock options should be valued as of the date of the breach or at some date subsequent to
9 the breach. *See Moser v. Encore Cap. Grp., Inc.*, 964 F. Supp. 2d 1224, 1226 (S.D. Cal. 2012).
10 “[V]aluing stock options on the date of the breach is typically preferable to utilizing a valuation
11 date that is based solely on a plaintiff's speculation as to when he would have exercised his
12 options.” *Id.* (internal quotation marks and citation omitted). However, if a plaintiff presents
13 credible evidence that he would have exercised his options on a later specific date, then the later
14 date may be used as the valuation date. *See id.* at 1226-27.

15 Wang testified that if he had received the promised RSUs in December 2019, when EHang
16 Holdings' IPO occurred, he would have sold half his shares within the first year and held the other
17 half of his shares to “see if there's any potential.” Trial Tr., Vol. 2, 281:6-11. In early 2021,
18 EHang Holdings' stock spiked in value to more than \$120 per share, a significant increase over its
19 IPO price of \$12.50 per share. *See id.* 281:15-19. However, the stock price thereafter plummeted
20 by nearly two-thirds in one day after publication of a research firm's report in February 2021. *See*
21 *id.* 281:13-15, 20-22. Wang testified that at that point, he would have determined that holding his
22 remaining shares was risky, and he would have sold in the first half of 2021. *See id.* 281:23-24.
23 Wang's goal would have been to exit his stock position in a reasonable way. *See id.* 282:4-6.

24 For the shares he would have sold in the first year after the IPO, Wang valued the shares
25 using the average stock price for the period from the December 2019 IPO through the end of 2020.
26 *See* Trial Tr., Vol. 2, 282:13-22. For the shares he would have sold in the first half of 2021, Wang
27 valued the shares using the simple average of the stock prices during that period. *See id.* 282:23-
28 283:3. Wang also took into account the lost tax benefits he would have received had he been

1 granted the RSUs as promised and held them for more than one year. *See id.* 282:16-17. Under
2 those circumstances, he could have taken advantage of the 20% capital gains cap. *See id.* Absent
3 the benefit of that 20%, Wang will have to pay 37% in federal taxes. *See id.* He claims the extra
4 17% of federal taxes as additional damages. *See id.* Using this methodology, Wang valued the
5 stocks he would have sold in 2020 at \$594,215, the stocks he would have sold in 2021 at
6 \$2,400,000, and the extra taxes at \$513,697. *See id.* 283:18-284:4. Added together, those figures
7 total \$3,507,912. Wang asked the jury to award him \$3,500,000 in compensatory damages, and
8 they did.

9 Defendants argue that Wang's testimony is insufficient to support the jury's compensatory
10 damages award because it is not bolstered by objective evidence confirming that Wang would
11 have followed this strategy. Defendants cite *Moser* for the proposition that Wang was required to
12 submit "adequate evidence" regarding his intent, and that "[a]dequate evidence, in this context,
13 refers to evidence that indicates that [the plaintiff's] intent to sell on a particular date was
14 formulated before he had the benefit of hindsight." *Moser*, 964 F. Supp. 2d at 1228. *Moser* is
15 factually distinguishable from the present case, in that it did not involve breach of an employment
16 agreement but rather breach of a settlement agreement. *See id.* at 1227. In *Moser*, the plaintiff
17 claimed that as a consequence of the breach of the settlement agreement, he was entitled to the full
18 value of the salary, benefits, and stock options he would have received absent the settlement
19 agreement. *See id.* Under those circumstances, the district court determined that the critical date
20 for calculating damages was the date the parties entered into the settlement agreement, unless the
21 plaintiff presented adequate evidence that he would have exercised his stock options at a later date.
22 *See id.* The district court further determined that in the context of the admittedly unique facts
23 before it, the plaintiff's showing would have to include evidence that he had a pre-existing plan to
24 exercise the stock options at a later date. *See id.* at 1228.

25 The *Moser* court's rationale for limiting the plaintiff's calculation of damages simply does
26 not translate to the present case, in which the RSUs had relatively little value at the time of breach
27 in 2016, before EHang Holdings' IPO. Wang testified that he initially was not concerned with the
28 delay in delivering his RSUs, because the shares had no value before the IPO, and that in fact

1 Hsiao told him that the delay in issuing the RSUs would have no impact on Wang because he
2 could not trade or sell them before the IPO. *See* Trial Tr., Vol. 1, 146:4-7; Vol. 3, 254:23-25:3.
3 Under the facts of this case, it is entirely plausible that Wang would have held his RSUs through
4 the IPO and then followed the strategy he explained through his testimony.

5 The *Moser* court, recognizing the unique facts before it, stated that the district court's task
6 is "to draw from general principles of contract law to fashion a valuation rule that fits the specific
7 circumstances" of the case before it. *Moser*, 964 F. Supp. 2d at 1228. The *Moser* court
8 recognized that it is ultimately for the jury to determine whether a plaintiff's testimony regarding
9 his plan to exercise his stock options "is credible or is merely self-serving hindsight." *Id.* at 1229
10 (internal quotation marks and citation omitted). In this case, the jury clearly found Wang's
11 testimony to be credible, as did the Court.

12 The Court is not persuaded by Defendants' citations to out of circuit cases in which the
13 courts found that the plaintiff had not presented adequate evidence of his intent. *See Scully v. US*
14 *WATS, Inc.*, 238 F.3d 497 (3rd Cir. 2001); *Greene v. Safeway Stores, Inc.*, 210 F.3d 1237 (10th
15 Cir. 2000). Nor is the Court persuaded by Defendants' argument that Wang's valuation should be
16 limited by his 2016 offer to settle the dispute by selling the RSUs back to Defendants at a
17 discounted price. *See* Trial Tr., Vol. 2, 258:20-260:17. In the present case, Wang testified that the
18 RSUs had no value until the IPO, and he offered credible and unrefuted testimony as to how he
19 would have disposed of his EHang Holdings shares after the IPO. The Court finds that Wang's
20 testimony is sufficient to support the compensatory damages award.

21 The motion for new trial is DENIED with respect to the jury's award of compensatory
22 damages in the amount of \$3,500,000.

23 **C. Jury's Award of Punitive Damages**

24 Defendants argue that the jury's award of punitive damages in the amount of \$15,000,000
25 is so excessive as to warrant a new trial on punitive damages. The Court need not address this
26 argument because, as discussed above, the punitive damages award cannot stand in light of the
27 Court's determination that Defendants are entitled to a new trial on the false promise claim.
28

1

IV. ORDER

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(1) The motion for new trial brought by Defendants EHang Holdings, EHang Intelligent, and Hu is GRANTED IN PART AND DENIED IN PART. The motion is GRANTED as to the false promise claim and the corresponding award of punitive damages, and DENIED as to the award of compensatory damages. The new trial is limited to Wang's claims for false promise against Defendants EHang Holdings, EHang Intelligent, and Hu.

(2) A Case Management Conference is SET for December 1, 2022 at 11:00 a.m. for the purpose of setting a trial schedule.

(2) This order terminates ECF 211.

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Dated: October 6, 2022

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BETH LABSON FREEMAN
United States District Judge

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